

# A BLUEPRINT FOR 2020: THE EXPANSION OF EARLY LEARNING AND CHILDCARE IN SCOTLAND

FUNDING FOLLOWS THE CHILD AND THE NATIONAL  
STANDARD FOR EARLY LEARNING AND CHILDCARE PROVIDERS:  
GUIDANCE ON MEETING CRITERIA 7 – BUSINESS SUSTAINABILITY

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## NOTE TO THE READER

**This guidance note is not intended as a substitute for legal advice and any party seeking to rely upon it should seek their own legal and / or related specialist advice before doing so.**

*Scotland Excel is the Centre of Procurement Expertise for the local government sector. Established in 2008, Scotland Excel are a leading non-profit shared service funded by Scotland's 32 local authorities.*

*Scotland Excel has been commissioned by the Scottish Government, on behalf of the Service Models Working Group, to develop a suite of supporting operational guidance and information that helps local authorities and providers in the private and third sectors, including childminders, implement Funding Follows the Child and the underpinning National Standard, from August 2020. This included guidance on evidence that a local authority may request from private and third sector providers, including childminders, in relation to the Business Sustainability criteria within the National Standard.*

*This guidance has been produced based on feedback gathered from local authorities, providers, provider bodies and other stakeholders (for example, Care Inspectorate). This has been through various focus groups and meetings, and a survey which was issued to all Care Inspectorate registered providers and to local authorities. Comments were also received from a smaller group of providers and local authorities, as well as provider bodies, on drafts of the guidance notes.*

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## **INTRODUCTION**

1. The Scottish Government and local authorities have committed to the near doubling of the funded Early Learning and Childcare (ELC) entitlement from 600 to 1140 hours per year from August 2020 for all 3 and 4 year olds, and eligible 2 year olds.
2. In order to ensure that the funded entitlement is delivered in high quality ELC settings, Funding Follows the Child will be introduced in August 2020 alongside the statutory roll-out of the expanded entitlement.
3. Funding Follows the Child is 'provider neutral' and is underpinned by a National Standard that all settings who wish to deliver the funded entitlement will have to meet.
4. The Scottish Government and COSLA published national guidance on [Funding Follows the Child](#) in December 2018. This included supporting [Operating Guidance](#) and a [Frequently Asked Questions](#) document.
5. Funding Follows the Child was developed through the Scottish Government, COSLA and local authorities working in partnership through the Service Models Working Group and through wider engagement with the ELC sector, including with providers. This included a consultation on Funding Follows the Child and the underpinning National Standard, which was supported by a programme of engagement events<sup>1</sup>.
6. Scotland Excel has been commissioned by the Scottish Government, on behalf of the Service Models Working Group, to develop a suite of supporting technical guidance and information that supports local authorities and providers to implement Funding Follows the Child. The technical guidance documents cover:
  - establishing sustainable rates for funded providers;
  - meeting the business sustainability criteria in the National Standard; and,
  - transition options on contracting.

## **Business Sustainability**

7. This guidance will support implementation of the Business Sustainability criteria of the [National Standard](#). It is primarily designed to support local authorities and private and third sector providers, including childminders, by providing guidance

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<sup>1</sup> More information on the Consultation, including the responses and an analysis of the responses is available at: <https://consult.gov.scot/children-and-families/service-model-for-2020/>.

on appropriate information and evidence to consider when reviewing whether a setting meets the National Standard criteria for Business Sustainability.

**Aim of this guidance note**

8. This guidance note reflects best practice and evidence gathered from stakeholders to ensure that clear and comparable approaches are taken in the way that local authorities request and review evidence in relation to *Criteria 7: Business Sustainability* in the National Standard.

## **SECTION 1: BUSINESS SUSTAINABILITY IN THE NATIONAL STANDARD**

9. A financially sustainable provider is important for children and their families, particularly in ensuring consistency and continuity of care. Consistency in setting and staff is key to a child's development. When young children come into a setting, they need a happy, secure environment, rich in opportunities which promote learning and physical activity which at the same time are calm, comforting and responsive.
10. This is why the [National Standard for ELC Providers](#) includes criteria regarding the business sustainability of providers who wish to become funded providers.
11. To ensure the delivery of a 'provider neutral approach', the [National Standard](#) will apply to all providers regardless of whether the funded hours are provided in the public, private or third sectors, including provision offered by childminders.
12. The [National Standard](#) criteria for Business Sustainability states:

***“Settings wishing to deliver the funded entitlement must be able to demonstrate that they are financially viable providers.”***

This is expanded upon in the [National Standard Operating Guidance which states:](#)

“• **Existing settings** delivering the funded entitlement must ensure that they are able to demonstrate – when required – that their business model continues to be financially viable through the provision of appropriate financial information, for example, accounts and business forecasts / projections. A Business Continuity Plan must also be in place.

• **Newly registered settings** wishing to deliver the funded entitlement will have had a financial viability check completed by the Care Inspectorate upon registration and this can be used as evidence of business sustainability in the funded provider probationary status period. When the probationary funded status is under review, the criteria for existing settings will apply.

• **Childminding settings** wishing to deliver the funded entitlement will be expected to have a contingency plan in place, detailing arrangements for the children in their care should they stop providing the service e.g. if the service was temporarily unavailable due to illness or the service was closed permanently.”

13. To ensure fairness and transparency, a comparable approach to requesting and reviewing Business Sustainability evidence for all providers, regardless of whether they currently deliver the funded hours or what type of provider they are, is required. This is in line with the 'provider neutral' Funding Follows the Child approach.

14. Principles and best practice are set out on the following pages to support local authorities to adopt an appropriate, transparent and clear approach to requesting and reviewing Business Sustainability evidence, and to support providers with demonstrating that they meet the Business Sustainability criteria.

### **Why does a local authority need to review this?**

15. Under Funding Follows the Child, local authorities are the guarantors of quality and the key enablers of flexibility. They play a key role in ensuring that those settings offering the funded entitlement are meeting the National Standard criteria. As the Business Sustainability criteria is part of the [National Standard](#), local authorities must assure themselves that funded providers meet this criteria.
16. Evidence of Business Sustainability will be requested and reviewed by a local authority at the point a provider applies to be able to offer the funded hours, unless the provider is a newly registered setting and has undergone these checks through the Care Inspectorate as part of the process of registration (see Section 7.1 for more information).
17. It is likely that a local authority will request or review this information on an ongoing basis as part of their role in monitoring whether settings are meeting the National Standard. The frequency at which this information is requested should be proportionate, reflecting a balance of managing risk and minimising the burden on providers. For example, a local authority may look to request this information on an annual basis or less frequently if the setting is deemed lower risk. This will assure the local authority that the provider's setting can be sustained and offer continuity of care to children and families as part of their funded ELC entitlement.
18. This guidance note aims to highlight best practice and provide examples of appropriate and reasonable evidence that can be requested from providers, using a risk-based approach.

## **SECTION 2: PRINCIPLES FOR REVIEWING BUSINESS SUSTAINABILITY**

19. Local authorities and funded providers working together meaningfully and in genuine partnership to deliver high quality and flexible ELC provision is fundamental to the success of 'provider neutral' Funding Follows the Child model.

20. This section outlines clear guidance on the principles which should be applied when reviewing business sustainability evidence from funded providers. The approach is built on partnership, and the principles which underpin business sustainability are, in particular, but not limited to:

- The evidence requested by the local authority regarding a private or third sector provider's business sustainability will be reasonable in terms of the size, scope and risk associated with the settings the provider operates.
- The information submitted by providers will be robust and accurate.
- The evidence requested regarding business sustainability will reflect the nature and scope of the ELC arrangements, including but not limited to, the size, capacity and financial / organisational structure of the private or third sector provider applying.
- The evidence requested will be a suitable mixture of historical information and future business plans that give the local authority assurances that the setting has the knowledge and experience to remain sustainable.
- The local authority may request additional evidence should there be an identified risk of provider failure or in other events, such as, where concerns are raised with the local authority or where there are indications of a reduction in quality.
- All documentation collected will only be used for the purpose of assuring that the private or third sector provider meets the Business Sustainability criteria in the National Standard.



### **SECTION 3: ROLES AND RESPONSIBILITIES**

22. As part of the process to become a funded provider, the local authority and providers have roles and responsibilities around the information that they provide each other. This should be done in a spirit of genuine partnership to ensure a simplified, fair and transparent approach for all parties.
23. It is important to highlight that local authorities have two distinct roles in this process as both a commissioner of ELC services and also in delivering funded ELC through local authority settings.
24. Table 1, below, demonstrates the roles and responsibilities of both parties (where the local authority is the commissioner of services to deliver funded ELC), in terms of reviewing evidence of business sustainability.

**Table 1: Roles and responsibilities**

	<b>Role</b>	<b>Responsibilities</b>
<b>Local Authority (commissioning funded ELC)</b>	<p>Local authorities are the guarantors of quality and key enablers of flexibility and choice with the statutory responsibility to ensure that the funded entitlement is available to all eligible children in their area.</p> <p>They must assure themselves that providers who wish to offer the funded entitlement meet the National Standard and monitor whether funded providers continue to meet the National Standard during the contract.</p> <p>They must be satisfied that the setting can be sustained and offer continuity of care to children and families as part of their funded entitlement to ELC.</p>	<ul style="list-style-type: none"><li>• Ensure a fair, transparent and compliant process to become a funded provider, including requesting sufficient evidence of Business Sustainability in line with the National Standard.</li><li>• Take cognisance of their own procedural orders, including Standing Orders and Financial Regulations, when requesting evidence.</li><li>• Request evidence that is proportionate to the type of provider.</li><li>• Provide clear guidance on the evidence requested and what should be submitted.</li><li>• Assure themselves that the provider meets the National Standard criteria, including where additional evidence is required.</li></ul>

		<ul style="list-style-type: none"> <li>• Communicate openly and transparently about decisions made about the National Standard, including on Business Sustainability.</li> </ul>
	<b><i>Role</i></b>	<b><i>Responsibilities</i></b>
<b><i>Provider</i></b>	Providers must submit evidence of business sustainability (in line with that requested) to the local authority in a timely manner.	<ul style="list-style-type: none"> <li>• Read guidance provided by the local authority and ask for clarification if it is required.</li> <li>• Provide accurate information that gives a true and accurate representation of the setting(s).</li> <li>• Provide evidence in the format and timescale requested by the local authority.</li> <li>• Provide additional information if and when the local authority seeks it.</li> <li>• Communicate in an open and transparent way with the local authority to ensure constructive communication throughout the process.</li> </ul>

## **SECTION 4: A RISK-BASED APPROACH**

25. Planning and managing risk is essential for a local authority to ensure continuity of service provision in their area and identify risks to service delivery.

*A risk to service delivery includes any aspect of the provider's business model where a failure would lead to the service not being delivered (and which would impact negatively on a child's ELC experience).*

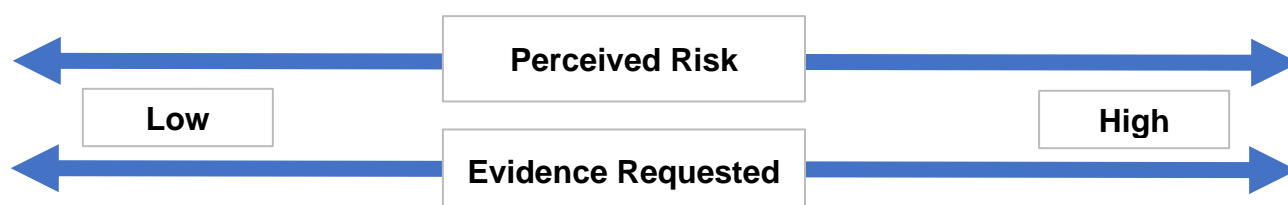
26. Figure 1 shows a simple risk management process that highlights the basic steps in understanding the risk of contracting with a provider.

**Figure 1:** Risk-based approach



27. Understanding the context, risk and mitigating factors will not only allow the local authority to review evidence accurately, it will also allow them to request an appropriate variety of evidence based on this assessment, as shown in Figure 2.

**Figure 2:** Using risk to inform evidence requests



## 4.1: Establishing the Context

28. Risks should be considered during any decision-making process. Risks can emerge directly as a result of a decision about risk or from external factors. The local authority should consider the overall supply market risks in their local authority area, within the context of a mixed economy model (with consideration of providers in all parts of the sector), to understand any risks in the structure of the local market.
29. Establishing the size, scope and type of organisation applying to be a funded provider will help a local authority identify potential risks associated with a setting. Local authorities can base their evidence requests on these considerations.
30. This aims to reduce the burden on providers applying by requesting pre-existing information from providers and limiting the amount of effort spent on creating new documents.
31. Table 2 highlights considerations based on provider characteristics that would be useful for local authorities to consider as these may change the evidence requested.

**Table 2:** *Variations in type of provider and considerations for these*

<b>Provider Characteristics</b>	<b>Considerations</b>	<b>Impact on Available Evidence</b>
Childminder (including those with one member of staff or more)	Childminders do not have to produce detailed financial information, however, are required to be registered with HMRC for tax purposes. Most childminders operate as 'sole traders' and have no staff.	Detailed accounts are not produced or filed.  Childminders do not have staff to deliver the service and should, therefore, have contingency plans in place.
A Single Setting and Small Chains (2 – 5 establishments)	These types of providers are likely to produce financial information, including accounts, however, these may not be audited.	Accounts will be produced and submitted, however, these are unlikely to be audited accounts.  Financial information could be requested for the provider.  Service information should be requested for each setting.

<b>Provider Characteristics</b>	<b>Considerations</b>	<b>Impact on Available Evidence</b>
Large Chain (5+ establishments)	These types of providers are most likely to produce detailed financial information, including audited accounts.	Accounts will be produced and submitted to Companies House or the Office of the Scottish Charity Regulator (OSCR). These accounts may be audited accounts.  Financial information could be requested for the provider.  Service information should be requested for each setting.
Charity	Accounts are submitted to the Office of the Scottish Charity Regulator (OSCR). The Charities Accounts (Scotland) Regulations 2006 set out the format and scrutiny requirements for charity accounts, which may be different to the requirements that companies must meet.	A charity's goals and objectives will influence the revenue streams and income generated. It is likely that profits will be lower.
Private Business (where incorporated as a Company)	Accounts are submitted to Companies House.	Audited accounts are not required for some (often smaller) businesses, however, all accounts must be submitted in line with the Companies Act 2006.

## 4.2 Identifying Risk

32. For ELC services, there are two distinct areas of risk:

- *Risk of financial failure:* Where the provider is unable to provide the service due to a change in the financial viability of the business, for example, filing for bankruptcy. This is usually a long-term issue.
- *Risk of service failure:* Where the provider is unable to continue to provide the service due to the materials, buildings or staff being unavailable, for example, staff absence. This is usually a short-term issue.

33. To identify the risk associated with different providers, the local authority may wish to develop a template to determine what evidence would be appropriate to request, based on the organisational set-up of the provider. It is expected that local authorities will work closely with providers to understand their approach to risk and how this is reflected in their business model. Risk can be identified and ranked based on the likelihood (chance of the risk occurring) and impact (outcomes of the risk occurring) of the risk.

34. Local authorities should carry out a risk analysis based on local factors.

35. Table 3 gives an example risk matrix that could be used to assess the level of risk within an ELC setting.

**Table 3:** Example risk matrix

	Comments	Low Risk	Medium Risk	High Risk
<b>Number of registered places</b>				
<b>Risk of service failure</b>				
<b>Risk of financial failure</b>				
<b>Other factors</b>				
<b>Overall assessment of risk level</b>				
<b>Evidence to be requested</b>				

### Examples of Risk Analysis

36. The impact of different characteristics of a childminder's business on the risk of 'service failure' will vary. For example, a childminder may be deemed as having a low level of risk for 'service failure' due to the (relatively) small number of children they provide care for. However, they may have a higher risk of 'service failure'

due to a lack of alternative staffing arrangements. Therefore, continuity plans could be requested to mitigate this risk. The size and reduced capital requirements (for example, no separate property costs) means 'financial failure' is expected to be relatively low. As childminders do not have to produce accounts, other evidence should be requested instead.

37. In contrast, for larger settings, the impact of 'service failure' could be deemed high given the number of children being cared for, whilst the risk of overall provider failure is reduced due to the number of staff providing the service, including the potential for cover to deal with absences or loss of staff. As larger settings are exposed to greater cost variables, increased costs may make the risk of 'financial failure' greater. For larger settings, therefore, more evidence may be requested relating to financial viability and the same evidence requested for service continuity.

### **4.3 Analysing and Evaluating Risk**

38. It is likely that a combination of different evidence will deliver the most effective and risk aware approach to reviewing provider business sustainability. The evidence requested by a local authority must be clearly defined in the procurement or application documentation.

39. The local authority will seek Business Sustainability evidence at the time of application through one of these methods:

- As part of a European Single Procurement Document (ESPD);
- Within the application form or documentation; or
- By another means that will be clearly stated by the local authority within the ELC provider application documentation.

40. The exact method will be determined locally, by each local authority, based on the process used to contract with funded providers. Further guidance on this can be found in *Transition Options Guidance for Contracting* which has been published alongside this document.

41. The following pages set out the common types of evidence that could be requested regarding Business Sustainability. A mix of evidence regarding Business Sustainability is likely to give a local authority the information required to understand the risk profile of a setting and assure themselves that the provider meets the criteria.

## **SECTION 5: EVIDENCE FOR PRIVATE AND THIRD SECTOR PROVIDERS**

### **5.1: Initial Evidence for Private and Third Sector Providers**

42. Table 4 presents the evidence identified as the most appropriate, objective and reasonable indicators that local authorities can use to assess whether private or third sector providers meet the Business Sustainability criteria. Whilst this is not exhaustive, it outlines a mix of evidence that is likely to provide local authorities with consistent assurance of business sustainability, in line with the National Standard criteria.

**Table 4:** *Types and review of evidence in private and third sector providers*

<b>Type of Evidence</b>	<b>What this is</b>	<b>How it will be reviewed</b>
Accounts	A term used to refer to financial statements, that is, the income statement and balance sheet, and often the cash flow statement.	<p>An assessment of cash balances / cash flows and identification of material negative trends may take place to determine the risk of funding.</p> <p>Another method for reviewing this information would be to request information in relation to specific ratios. For example, the local authority could review:</p> <ul style="list-style-type: none"><li>• Current Ratio</li><li>• Quick Ratio</li><li>• Gearing Ratio</li><li>• ROCE (Return on Capital Employed)</li></ul> <p>A local authority may ask its own finance department, or an external body, to review accounts or undertake financial ratio analysis, to assess the financial viability of the organisation.</p> <p>Profitability alone may not provide evidence of business sustainability for organisations as re-investment and organisational set-up (e.g. registered charity) may lead to low levels of profitability.</p> <p>Accounts alone should not be used to determine the business sustainability of a provider / setting.</p>



Credit Reference	A reference from a credit agency gives insight into a provider's financial stability, based on analysis of a business's credit information.	<p>A credit reference assists in determining an organisation's financial status and risk. It is conducted by an independent third party (a credit reference agency).</p> <p>A local authority may set a minimum score or grading that needs to be met. If an organisation does not meet the minimum score or grade, additional information may be sought. Any minimum score or grade must be clearly set out to private and third sector providers.</p>
Occupancy	The percentage (%) of registered places that are regularly attended at each setting.	<p>Occupancy provides insight into the demand for a setting locally and provides assurance that the setting has a steady cash flow through children attending. A low occupancy for the setting as a whole may indicate limited demand in the area or insufficient cash flow to remain sustainable in the long term.</p> <p>Lower occupancy rates may also be related to geographical factors. For example, in remote or rural areas, the occupancy figure may be lower and, therefore, a local decision needs to be taken as to what an appropriate / sustainable occupancy figure would be.</p> <p>The forecasted change in occupancy as a result of a private or third sector provider's funded status should also be considered.</p>
Continuity Plan	A continuity plan contains information as to how the setting will respond in the event of an emergency or closure of the service. This should be prepared for each setting.	A continuity plan that aligns with Care Inspectorate requirements for 'Contingency Plans' (see Annex C) should be requested. A local authority may also request information on disaster recovery plans (for example, where the building / location is no longer available for use) and tenure at current location (for example, mortgage or lease period remaining).

43. Local authorities should reduce the administrative burden as much as possible on private and third sector providers by requesting a mix of evidence that provides adequate assurance that the setting is financially viable and balances available resources to review the evidence.

## 5.2: Additional Evidence for Private and Third Sector Providers

44. Additional evidence may be requested when a private or third sector provider has been identified as presenting a higher risk against the business sustainability criteria, for example, regarding their long-term sustainability either due to financial or service issues. It is likely that local authorities will need to access specialist advice from relevant colleagues to assess this information and come to a fair, transparent and clear decision about business sustainability in these cases.
45. The evidence in Table 5 should only be requested if additional assurance is sought about a potential funded provider's sustainability because it has been identified as higher risk.

**Table 5:** *Types and review of additional evidence for private and third sector providers*

Type of Evidence	What this is	How it will be reviewed
Financial Budgets / Forecasts	A term used to refer to a financial and / or quantitative statement that is prepared and agreed for a specific future period.	<p>A financial budget / forecast demonstrates that the provider has considered future investment in the service (for example, for the next 12 months) and that it has appropriate capital or revenue streams to support this.</p> <p>A local authority may review this information to assure themselves that the provider can continue to sustain the service, including maintaining staffing requirements / development and premises.</p>
Operational Forecasts	Forecasts show the number of children that a service expects to provide care for over a given period.	<p>Forecasts may be reviewed to assure the local authority that the provider has considered sources of income and the type of service provision that it intends to deliver.</p> <p>A local authority may review this information to understand the providers planned sources of income. For example, confirmation of the number of eligible children from previous years and projection for next year.</p>

<b>Type of Evidence</b>	<b>What this is</b>	<b>How it will be reviewed</b>
Management Accounts	Accounts prepared to an internal standard for the purpose of management (which may or may not be the same as financial accounts).	<p>Management accounts provide a current view of the provider's business and often provide current and future financial information. An assessment of cash balances / cash flows and identification of material negative trends may take place to determine the risk of funding.</p> <p>These may be compared to previous accounts (i.e. management accounts over a different time period or financial accounts) to inform the local authority's understanding of the provider's financial stability and business activity (i.e. expansion, change in service provided etc).</p> <p>Profitability alone may not provide evidence of business sustainability for organisations as reinvestment and organisational set-up (e.g. registered charity) may lead to low levels of profitability.</p>

## **SECTION 6: EVIDENCE FOR CHILDMINDERS**

46. Due to the scale and size of childminder establishments, a local authority may request a reduced amount of evidence in terms of financial risk and more evidence in terms of service continuity.

**Table 6:** *Types and review of evidence for childminders*

<b>Type of Evidence</b>	<b>What this is</b>	<b>How it will be reviewed</b>
HMRC Self-employment confirmation	Childminders who have not set up their own company to provide the services are not required to submit accounts to Companies House. However, they should be registered with HMRC as self-employed.	The local authority may ask the childminder to confirm (or provide evidence) that they are registered as self-employed.
Self-Assessment Form / Simple account of turnover, expenses and profit.	The Scottish Childminding Association (SCMA) produces annual guidance on tax and national insurance (developed specifically for childminding services) and, as small businesses, most childminders complete a self-assessment form to submit a simple account of turnover, expenses and profit.	<p>Simple accounts may be requested as evidence of appropriate financial management and due diligence.</p> <p>An assessment of cash balances / cash flows and identification of material negative trends may take place to determine the risk of funding.</p> <p>The local authority may also check public records (such as the Debt Arrangement Scheme (DAS) Register and Register of Insolvencies) to confirm the childminder is not under financial duress.</p>
Continuity Plan	Continuity planning evidence for childminders should focus on the day-to-day operational requirements of the service.	<p>Inclusions for contingency planning may be holidays or medical emergencies, along with staffing issues and sickness.</p> <p>This should be aligned with information required as part of their Care Inspectorate registration, shown in Annex B.</p>

## **SECTION 7: SPECIAL CIRCUMSTANCES**

47. There are specific circumstances where a local authority may consider alternative evidence to assure themselves that the Business Sustainability criteria is met.

### **7.1: Newly Established Settings**

48. As part of the Care Inspectorate registration process, rigorous tests (detailed in Annex A) are applied to new settings. On this basis, it is suggested that a local authority may rely upon successful Care Inspectorate registration, within the last 12 months, as suitable evidence of business sustainability during the funded provider's 'probationary status period'. When the probationary funded status ends, without incident or withdrawal, the approach for existing settings will apply. However, a local authority may request further evidence for their own records and requirements, for example, continuity plans.

### **7.2 Buyout of Non-Funded Setting by a Funded Provider**

49. Where an establishment is bought over by a funded provider, it may be expected that the provider applies for the new setting to offer the funded entitlement. The local authority application process should be applied and appropriate due diligence undertaken.

### **7.3 Buyout of Funded Setting by a Non-Funded Provider**

50. The provider should not assume that a funded setting would automatically retain funded provider status.
51. Where a funded provider setting is bought by a business or person who does not have funded provider status, this may be dealt with through an assignation process (either as outlined in the application process or in the applicable terms and conditions of contract), where appropriate.
52. Alternatively, the provider would apply to become a funded provider at the next opportunity. The local authority application process should be applied and appropriate due diligence undertaken.

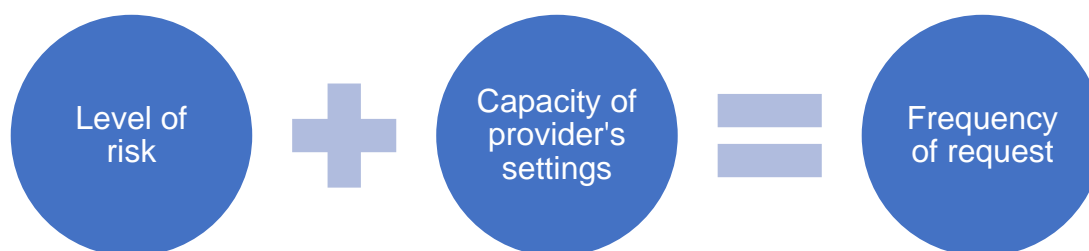
### **7.4 Buyout of Funded Setting by a Funded Provider**

53. Where a funded setting is bought by a business or person who has funded provider status for another setting, this may be dealt with through a request to vary the provider's current funded status award (either as outlined in the application process or in the applicable terms and conditions of contract), where appropriate.
54. Alternatively, the provider would apply to become a funded provider at the next opportunity. The local authority application process should be applied and appropriate due diligence undertaken.

## **SECTION 8: ONGOING REVIEW**

55. As part of contract management, the local authority may request business sustainability evidence on an ongoing basis. The approach taken must be proportionate and is likely to be requested based on the risk and capacity of the with private or third sector provider (see Figure 3).

**Figure 3:** *Determining frequency of review*



56. It would be anticipated that higher risk funded providers or those with a high volume of funded places would be requested to provide evidence on a more frequent basis than funded providers that are deemed as lower risk or provide a small number of funded places.

57. It is also expected that local authorities, alongside their duty to consult with parents and carers to inform delivery of ELC in their area, will continue to review the ELC market in their area and map capacity.

## **ANNEX A: CARE INSPECTORATE REGISTRATION FINANCIAL INFORMATION**

### **Initial Registration**

58. The Care Inspectorate needs to be satisfied, prior to granting registration, that any proposed new care service has appropriate funding in place and has taken steps to ensure its financial viability.
59. Applicants for registration declare, in their application, that they are neither subject to sequestration or bankruptcy nor have they granted a trust deed for the benefit of their creditors. They must declare that they have not been disqualified as a company director. Making a statement that is knowingly false or misleading on application is an offence.
60. **NOTE:** *Based on a high level financial risk assessment, financial viability is not assessed for applicants who register as childminders, nor for applications made by local authorities.*
61. Financial risk assessment is performed at the point of registration. The assessment is based on the applicant's experience, any history they may have as a reputable provider, evaluations of any other services registered by the applicant, type of service to be provided and funding. The assessment informs the intensity of financial viability review to be undertaken.
62. To assess financial viability, applicants are required to submit a business plan, cash flow forecast and a financial reference to support their application to register a care service. The Care Inspectorate has powers to require this information under section 59(2)(c) of the Public Services Reform (Scotland) Act 2010 (the Act) which states in relation to applications for registration that an applicant must 'give any other information which the Care Inspectorate may reasonably require the applicant to give'.
63. It is vital that the Care Inspectorate ensures that applicants have addressed and understood the financial implications of establishing and providing a sustainable care service.
64. The Care Inspectorate's internal key performance indicator for registration applications is a period of 6 months from receipt of a competent application to registration for all services, apart from childminders for whom it is 3 months. Legislation requires 3 months advance notice for submission of variations.

## **Business Plan**

65. As mentioned above, to assess financial viability, any applicant to register a care service is required to submit a business plan as part of their application. A good business plan should aid the Care Inspectorate's understanding of the proposal and there are certain fundamental topics that they would expect to see included:

### ***Background***

- History and background of applicants
- Aims and objectives of the individuals in setting up the business
- Ownership structure and details of associated businesses

### ***Management & Staff***

- Detailed CVs of proposed managers & senior staff

### ***Market Research***

- Location of proposed business
- Hours of operation
- Services / facilities to be provided
- Competition

### ***Financing & Capital Investment***

- Capital Investment required
- Funding sources
- Premises – leased / owned

### ***Operating Assumptions (supporting the financial forecasts)***

- Proposed weekly fee rates
- Proposed staff grades & ratios per child placed
- Proposed pay rates
- Overheads – rent, rates, insurance etc.

66. The list is not intended to be exhaustive and it is not expected to see each of the categories listed in every business plan received.

67. Any gaps in the information provided which affects the Care Inspectorate's understanding of the proposal should be raised with the applicant and noted separately.



## **ANNEX B: CARE INSPECTORATE CONTINUITY PLAN REQUIREMENTS**

68. The Care Inspectorate require that providers of care services must maintain an up-to-date contingency plan to be implemented in the event of closure of the service, including closure at short notice. The Care Inspectorate expect all care service providers and particularly those with proposed and current 24-hour services to have a contingency plan in place to deal with all emergencies, including short notice closures. Inspectors should make a requirement if a service does not have an appropriate contingency plan.

69. Contingency plans should include:

- arrangements for service users and their families to be given a minimum of 3 months' notice and to be consulted on arranging alternative placements.
- plans to update personal / care plans
- arrangements for notifying the Care Inspectorate and the local authority / health board at the earliest opportunity
- awareness of sources of advice and good practice regarding closures.

## **ANNEX C: EVIDENCE MATRIX**

70. The matrix below provides an overview of the appropriate types of evidence that could be requested for each type of setting, along with evidence that may be requested for a private or third sector provider that is higher risk. Not all evidence will necessarily be requested. The evidence requested regarding a provider's business sustainability will be reasonable in terms of the size, scope and risk associated with the settings the provider operates.

<b><i>Type of Evidence</i></b>	<b><i>Third Sector Provider</i></b>	<b><i>Private Provider</i></b>	<b><i>Childminder</i></b>
Accounts	X	X	
Credit Reference	X	X	
Occupancy	X	X	
Continuity Plan	X	X	X
HMRC Self-employment confirmation			X
Self-Assessment form / Simple Accounts			X

<b><i>Type of Evidence: Higher Risk Provider</i></b>
Financial Budgets / Forecasts
Operational Forecasts
Management Accounts

## **ANNEX D: GLOSSARY**

<b>Term</b>	<b>Explanation</b>
Accounts	A term used to refer to financial statements, that is, the income statement and balance sheet, and often the cash flow statement.
Assignment	Assignment is the process by which ownership of the rights and obligations made in a contract is transferred under Scots law.
Continuity Plans	A continuity plan contains information relevant in the event of an emergency or closure of the service. This is similar to a Contingency Plan required by the Care Inspectorate.
Contract Standing Orders	Contract Standing Orders are specific to each local authority and ensure that uniform contracting procedures are used. They promote consistency, transparency, fair opportunity and equality of treatment.
COSLA	COSLA, the Confederation Of Scottish Local Authorities, is the voice of Local Government in Scotland. They provide political leadership on national issues, and work with local authorities to improve local services and strengthen local democracy.
Credit Reference	A reference from a credit agency gives insight into a business's financial stability, based on analysis of a business's credit information.
Current Ratio	Indicates the availability of working capital.
Disaster Recovery Plans	A term used to include planning in the event there is a serious issue with the setting's ability to perform the service required. For example, flood, fire or electricity failure.

Early learning and childcare (ELC)	The relevant legislation defines early learning and childcare as: <i>“a service consisting of education and care, of a kind which is suitable in the ordinary case for children who are under school age, regard being had to the importance of interactions and other experiences which support learning and development in a caring and nurturing setting.”</i>
European Single Procurement Document (ESPD)	<p>The European Single Procurement Document replaced the Standard Pre-Qualification Questionnaire (sPQQ) and it is mandatory to use the ESPD (Scotland) for all Route 3 procurements which begin on or after 18 April 2016.</p> <p>Where a requirement is deemed to come under Light Touch Regime of the regulations, the mandatory exclusion grounds (regulations 58(1) to (3) of Public Contracts (Scotland) Regulations 2015) must be applied to all procurements. An organisation can also choose to apply the discretionary exclusion grounds and can choose to use the ESPD (Scotland) for this purpose without amending the questions, and it is a matter of best practice to do so.</p>
Financial Regulations	The financial regulations and associated procedures provide the financial governance and accountabilities for a local authority in relation to the overall financial management of the local authority.
Funded hours	The hours of funded ELC provision for children which are funded through the local authority up to the statutory entitlement of 600 hours per year or (from August 2020) 1140 hours of funded ELC per year for all 3 and 4 year olds and eligible 2 year olds.
Funded Provider	An ELC setting which meets the National Standard, has entered into contract with the local authority and offers the ELC funded entitlement to children.

Gearing	A calculation that indicates the extent to which a business is funded by debt.
Provider	Any organisation offering ELC provision registered with the Care Inspectorate under daycare of children or childminding registrations.
Quick Ratio	This calculation indicates the liquidity level of a business.
Ratio Analysis	Ratio analysis involves using calculations and interpretation of key financial performance indicators to provide information on a business' financial health.
Return on Capital Employed Ratio	This calculation indicates profitability in terms of the overall capital invested in the business
Scottish Childminding Association (SCMA)	A charity and membership organisation that provides support, training and information to childminders in Scotland.
Scotland Excel	The Centre of Procurement Expertise for the local government sector. Their services are designed to help local authorities meet the twin challenges of reducing budgets at a time of growing demand. Collaborative procurement increases efficiency and ensures money is saved to protect front line services. By working together through Scotland Excel, local authorities work to realise a host of social, economic and environmental benefits from their spend.
Service Model Working Group	A group established in 2017 to bring together Scottish Government, COSLA and local authorities to work in partnership to develop Funding Follows the Child and the underpinning National Standard for ELC providers.
Setting	Any service offering ELC provision registered with the Care Inspectorate under daycare of children or childminding registrations.
Sustainable rate	The hourly rate that is paid to funded providers in the private and third sectors and childminders to deliver the funded entitlement.

	<p>The rate will support delivery of a high quality ELC experience for all children; reflect the cost of delivery, including the delivery of national policy objectives; allow for investment in the setting – staff, resources and physical environment; and enable payment of the real Living Wage for those childcare workers delivering the funded entitlement.</p>
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